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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 6

In re Application of :
Jerry W. Stewart, et al. : DECISION ON PETITION
Application No. 10/081,412 : TO WITHDRAW THE
Filed: February 22, 2002 : HOLDING OF ABANDONMENT
For: MULTI-STORY MULTIPLE DWELLING
COMPLEX WITH SEMI-PRIVATE GARAGE...

This is a decision on applicant's petition to withdraw the holding of abandonment filed January 13, 2004 in the United States Patent and Trademark Office.

The petition is DISMISSED.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated June 13, 2003 and a Notice to that effect was mailed on December 30, 2003.

Petitioner states that a response with a request for a three month extension of time was filed on December 15, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated December 15, 2003, authorization to charge applicants deposit account for three months, and a post card receipt dated December 18, 2003. The post card receipt however cannot be used as evidence of timely filing since it extends past the six month statutory period.

(maclnw)
Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

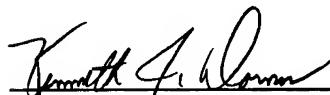
- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original

response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Therefore a statement under 37 C.F.R. 1.8(b)(3), as noted above, is needed from Anne Ziegler attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate for the petition to be granted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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KJD/cps: 2/18/04